

2005 DRAFTING REQUEST

Assembly Amendment (AA-AB539)

Received: **01/24/2006**

Received By: **dkennedy**

Wanted: **As time permits**

Identical to LRB:

For: **John Townsend (608) 266-3156**

By/Representing: **Laura Rose**

This file may be shown to any legislator: **NO**

Drafter: **dkennedy**

May Contact: **Betsy Abramson, Ellen Henningsen**

Addl. Drafters:

Subject: **Mental Health - protect place**

Extra Copies: **Laura Rose (Legislative Council)**

Submit via email: **YES**

Requester's email: **Rep.Townsend@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Adult protective services

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	dkennedy 01/24/2006	lkunkel 01/25/2006		_____			
/1			jfrantze 01/25/2006	_____	sbasford 01/25/2006	sbasford 01/25/2006	
/2	dkennedy 02/02/2006	lkunkel 02/02/2006	rschluet 02/02/2006	_____	mbarman 02/02/2006	mbarman 02/02/2006	

FE Sent For:

<END>

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/?	dkennedy 01/24/2006	lkunkel 01/25/2006		_____			
/1			jfrantze 01/25/2006	_____	sbasford 01/25/2006	sbasford 01/25/2006	

FE Sent For:


<END>

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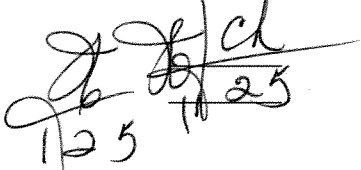
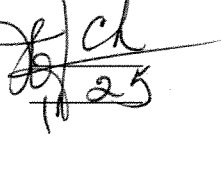
Topic:

Adult protective services ✓

Instructions:

See Attached

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/?	dkennedy	1/1mk'1/25					

FE Sent For:

<END>

Kennedy, Debora

From: Rose, Laura
Sent: Tuesday, January 24, 2006 10:19 AM
To: Kennedy, Debora
Subject: FW: technical changes to AB 539 needed

Attachments: AB 539 proposed technical changes.doc



AB 539 proposed
technical chan...

Hi, Debora,

Here is a memo from Ron Hermes. It tracks the changes in Betsy's memo pretty closely. We definitely need to have this drafted for the exec session tomorrow. This can be sent directly to Rep. Townsend, c/o Minette Lawrence.

THANKS!

Laura

-----Original Message-----

From: Hermes, Ron
Sent: Tuesday, January 24, 2006 9:35 AM
To: Rose, Laura
Subject: Fwd: technical changes to AB 539 needed

Laura-

Here is the list of technical changes to AB 539 the Dept is recommending.

Ron

>>> Ron Hermes 01/23/06 03:40PM >>>

Hi Diane and Pam-

Not sure which of you is working on AB 539, so I am sending this to both of you. I spoke to Minette and she stated that Sue is offering an amendment to AB 539. Staff has just let me know that there are a few technical and clarifying changes necessary so the bill reflects intent.

Attached is a document that highlights technical changes identified by DHFS staff. I hope that you will consider including these items in Sue's amendment.

Please contact me if you have any questions.

Ron

Date: January 23, 2006
 To: Rep. Jeskewitz
 From: Ron Hermes
 RE: Recommended Technical Changes for AB 539

2005 AB 539

The following items represent technical and clarifying changes we are recommending be considered:

Pages	Sections	Lines	Proposed changes
14	20	7-14	After 3, add references to Identity Theft (s. 943.201), Use of Identifying Information (s. 943.203), Forgery (s. 943.38) and Financial Transaction Card Crimes (s. 943.41).
33	75	3	In item 8, add a reference to ch. 813.
36-37	85-91		Do not make the changes indicated in each of these sections. The proposals would have a large impact on the caregiver law (sec. 50.065 and ch. HFS 13) and the definitions of caregiver misconduct.
38	93	17	Delete "which" and retain "illness" in line 17 only.
39	94	9-11	The definition of Developmental disability should be changed to strike the reference to senility. Instead that sentence should read: "Developmental disability does not include degenerative brain disorder, as defined in s. 55.01(1v)."
42	102	2	Add "neglect" and "self-neglect" after "abuse".
		6	Add "financial" before "exploitation" and add "self-neglect"
43	110	11-12	The definition of Developmental disability should be changed to strike the reference to senility. Instead that sentence should read: "Developmental disability does not include degenerative brain disorder, as defined in s. 55.01(1v)."
44	120	7-11	The first sentence should read: "The department shall develop a statewide system of protective services for developmentally disabled persons, persons with degenerative brain disorders, chronically mentally ill persons and persons with other like incapacities incurred at any age in accordance with rules promulgated by the department."
		20	Strike "the"
51	138	15	Delete "authorized"
60	159	16	In item 8, add a reference to ch. 813

PROBLEM

See BA memo + solution

63	165	20	Edit the sentence as follows: "If, upon a credible report to or from the personal observation of a sheriff, police officer, fire fighter..."
64	165	1	Strike "person making the observation" and replace with "the individual <u>listed above</u> who received the credible report or who personally made the observation"
64-66	167-174		Do not make the changes recommended in sec. 146.40. The proposals would have a large impact on the caregiver law (sec. 50.065 and ch. HFS 13) and the definitions of caregiver misconduct.
71	199	5	Change "material abuse" to "financial exploitation"
71	201	21	Change "premises" to "location"
75	213	21-22	The definition of Developmental disability should be changed to strike the reference to senility. Instead that sentence should read: "Developmental disability does not include degenerative brain disorder, as defined in s. 55.01(1v)."

check
w/ BA
changes

same as
BA

There is
no "premise"

clarifies
BA

X IGNORE

Kennedy, Debora

From: Rose, Laura
Sent: Tuesday, January 24, 2006 9:21 AM
To: Kennedy, Debora
Cc: 'Betsy J. Abramson'; Offerdahl, Mary; Matthias, Mary
Subject: FW: AB 539

Hi Debora,

Just wanted to give you a "heads up" that the Assembly Aging and Long Term Care committee is voting on AB 539 tomorrow. I just got these emails from Betsy and Ellen Henningsen. I will go over the points right now, but I thought you might want to get started drafting this because it looks long. I will call you within the hour to confirm.

I am also calling Rep. Townsend's office right now to see if it is too late to have an amendment offered - they might have a 24 hour rule, in which case it would be too late by the time they get this. I'll let you know what he says.

Thanks,

Laura

From: Betsy J. Abramson [mailto:abramson@mailbag.com]
Sent: Tuesday, January 24, 2006 8:57 AM
To: Ellen Henningsen; Rose, Laura; Raymond, Jane; Dawson, Linda
Cc: 'Ellen Henningsen'
Subject: Re: AB 539

1/24/06

Laura:

cc: Ellen Henningsen, Jane Raymond, Linda Dawson

Also, Jane and I noticed some minor stuff - grammatical things, etc., as well as some arguably substantive but more of oversight.

✓ Ex: P.44, line 9, still says for "aged infirm persons" and I'd think we'd want to replace that wit "individuals with degenerative brain disorders,"

✓ Also, on p. 44, line 20, we need to stroke the word "the" b/c otherwise it would read: Each county board shall designate the an agency to serve..."

~~✓~~ More substantively, I seem to remember some problem with the definition of "caregiver" on 0. 13, line 10. Jane: Can you help with that? ~~✗~~ **IGNORE**

~~✓~~ On p. 15, lines 6, 8, 10 and 18 - we refer to the "individual." Shouldn't that be replaced with "elder adult-at-risk"?

Doesn't this beg the issue (conclude before we start?) EAR is person who experiences neglect (failure of caregiver to give care to an EAR)

✓ P. 14 - we have a listing of financial exploitation. After line 14, shouldn't we add in:

01/24/2006

4. Identity theft - 943.201
5. Forgery - 943.38
6. Financial transaction card crime - 943.41
7. Any other property crime in ch. 55....?

p. 16- lines 12 and 18 - same Q about "individual" instead of elder adult-at-risk

IGNORE

I'm not clear on our thinking on this, but I have in my notes that on pp. 36-38, to drop Sections 85, 86, 87, 88, 89, 90 and 91.

P. 38, line 17, drop the word "which"

P. 39 - line 10, is that proper language "senility which is primarily caused by the process of aging"? —

(See Ron Haines memo)

p. 42, line 2 - after "abuse," add in "neglect, self-neglect." And why keep "degrading treatment"? Isn't that covered under abuse and neglect and financial exploitation? It's not defined anywhere anyway....

Page 42, line 6 - change to "and protection from abuse, FINANCIAL exploitation, NEGLECT and SELF-neglect." (No caps obviously)

p. 47 - line 3, do we need the words "or the caregiver"? Should we just ignore?

TAKE OUT; REDUNDANT

p. 51 - last word in line 15 - don't need "authorized"

Problem: I think "required" shd go; look at 55.043(1)(a)(intro.), as RA

p. 60, line 15, after "51, 55," add in "813"

LR: Required to refer

p. 63 - seems to be a problem with the emergency protective placement in section 165 - lines 19-end. Isn't it supposed to parallel 51.15(1)(b)2 - so as to include If, from personal observation, OR BASED ON THE REPORT OF A RELIABLE WITNESS? And isn't the standard supposed to be lower than "appears probable that an individual will suffer irreparable injury or death or will present a substantial risk of serious physical harm to others..." And wasn't the county to have designated an emergency protective placement facility?

ASK BA

LR: NO

p. 64, line 19

Isn't it supposed to refer to the nurse aide registry law?

? This is the nurse aide registry law

X

p. 64-66 -

drop sections 168, 169, 170, 171, 172, 173, 174 /

p. 71, line 5 - change the words "material abuse" to "financial exploitation"

P. 72, lines 24-25 - I think Jane was looking at this one. My notes say to add before the very end of the sentence on line 25, "and the court finds that it is in the best interests of the individual to permit contact." (just like p. 70, lines 13-15) Same issue on p. 73, line 21.

P. 75 - same problem as p. 39 -

what to do?

logical problem

No; Not necessary here bec. of p. 72, line 6

p. 43, line 12 - same question as on p. 39 -

what to do?

w/(a)(intro.) - take out

Gee, that's it. So, what do you think Laura. Can someone have these amendments in his/her little hand, (i.e., I write them up nicely and bring copies for Joe Parisi or Sindy-PR or Peggy Krusick to make and then they can be voted on at committee? Or is the process that they have to be drafted in amendment form? We don't want to slow down this train - but we also want to have it right. If we wait to get these fixed on Assembly floor, will that cause problems? If we wait until Senate committee, won't it have to come back to Assembly anyway?

Although the list looks long, and they are arguably substantive, I do not think that they are the least bit controversial, but then again, who knows.

DELETE "unless the individual at risk consents in writing" p. 71, ll 24+25 + p. 73, ll 20+21

We await, nervously, your reply.
Betsy

Betsy J. Abramson
Attorney / Elder Law Consultant
520 Miller Ave.
Madison, WI 53704
(608) 332-7867
abramson@mailbag.com

----- Original Message -----

From: Ellen Henningsen
To: laura.rose@legis.state.wi.us
Cc: 'Ellen Henningsen'; 'Betsy J. Abramson'
Sent: Tuesday, January 24, 2006 8:09 AM
Subject: AB 539

Good Morning Laura – I was rereading the analysis of AB 539 this morning and noticed something that might need attention from a drafting perspective. I only read the analysis and did not take the time to read the actual bill language. So I may be wrong but thought you could easily check into this. The bill is being exec'd tomorrow so if there is a drafting inconsistency, it needs to be attended to.

My concern is on page 5 in the 5th and 6th full paragraphs (the last two paragraphs before the section that's headed "investigations") - fifth paragraph says "the person found guilty of retaliating against a reporter is subject to a fine of not more than \$1,000." The 6th paragraph says "by increasing the maximum fine to \$10,000." If the 5th paragraph is a reference to current law, then it's fine. But it didn't quite read that way to me, so I thought I'd check.

Note I'm cc'g Betsy and also me at work (I'm writing this from home). So if you reply, hit "reply to all."

Thanks.

Ellen Henningsen
717 Orton Court
Madison WI 53703
orton@chorus.net
608-256-1726

Kennedy, Debora

From: Betsy J. Abramson [abramson@mailbag.com]
Sent: Tuesday, January 24, 2006 12:13 PM
To: Rose, Laura
Cc: Kennedy, Debora
Subject: AB 539 - p. 73

Laura: After thinking about it some more, I realized that my comments about p.73, line 21 were in error. Page 73, line 20 should end at "Individual at risk." - delete the "...unless...." as the issue of the individual's consent and the judge determiningi best interests are addressed on p. 72, lines 4-11, in the judge's determination.

I've cc'd Debora Kennedy so she'll know of the decision. BA

Betsy J. Abramson
Attorney / Elder Law Consultant
520 Miller Ave.
Madison, WI 53704
(608) 332-7867
abramson@mailbag.com



WEDNESDAY, if possible

State of Wisconsin
2005 - 2006 LEGISLATURE

LRBa2144/1

DAK.....
lmk

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

ASSEMBLY AMENDMENT,
TO 2005 ASSEMBLY BILL 539

- 1 At the locations indicated, amend the bill as follows:
- 2 **1.** Page 14, line 14: after that line insert:
- 3 "4. Unauthorized use of an individual's personal identifying information or
- 4 documents, as prohibited in s. 943.201.
- 5 5. Unauthorized use of an entity's identifying information or documents, as
- 6 prohibited in s. 943.203.
- 7 6. Forgery, as prohibited in s. 943.48.
- 8 7. Financial transaction card crimes, as prohibited in s. 943.41."
- 9 **2.** Page 33, line 8: after "55," insert "813,".
- 10 **3.** Page 36, line 14: delete the material beginning with that line and ending
- 11 with page 38, line 11.
- 12 **4.** Page 38, line 17: delete "that which" and substitute "which that".

1 **5.** Page 39, line 10: delete "senility which is primarily caused by the process
2 of aging or" and substitute "~~senility which is primarily caused by the process of aging~~
3 ~~or~~". ✓

4 **6.** Page 42, line 2: delete "abuse, and degrading treatment" and substitute
5 "~~abuse and degrading treatment, neglect, and self-neglect~~". ✓

6 **7.** Page 42, line 6: delete "exploitation and neglect" and substitute "financial
7 exploitation and, neglect, and self-neglect". ✓

8 **8.** Page 43, line 11: delete lines 11 to 13 and substitute "constitutes a
9 substantial handicap to the afflicted individual. The term Developmental
10 disability" does not include a person affected by senility which is primarily caused
11 by the process of aging or the infirmities of aging with degenerative brain disorder". ✓

12 **9.** Page 44, line 8: delete lines 8 to 11 and substitute "develop a statewide
13 system of protective service services for mentally retarded and other
14 developmentally disabled persons, for aged infirm persons, for persons with
15 degenerative brain disorders, chronically mentally ill persons, and for persons with
16 other like incapacities incurred at any age, in accordance with rules promulgated by
17 the department. The". ✓

18 **10.** Page 44, line 20: delete "the" and substitute "the". ✓

19 **11.** Page 47, line 3: delete that line and substitute "of the vulnerable adult, the
20 caretaker or the landlord at risk. The". ✓

21 **12.** Page 51, line 15: delete the material beginning with "authorized" and
22 ending with "respond" on line 16 and substitute "required to refer". ✓

23 **13.** Page 60, line 16: after "55," insert "813,". ✓

14. Page 63, line 20: after "If," insert "upon a credible report to or".
15. Page 64, line 1: delete "person making" and substitute "person making individual under this paragraph who received the credible report or who personally made".
16. Page 64, line 18: delete the material beginning with that line and ending with page 66, line 21.
17. Page 71, line 5: delete "material abuse" and substitute "financial exploitation".
18. Page 71, line 24: delete lines 24 and 25 and substitute "enforcement officer to contact the individual at risk."
19. Page 73, line 20: delete lines 20 and 21 and substitute "enforcement officer to contact the individual at risk."
20. Page 75, line 20: delete lines 20 to 22 and substitute "constitutes a substantial handicap to the afflicted individual. The term "Developmental disability" does not include a person affected by senility which is primarily caused by the process of aging or the infirmities of aging degenerative brain disorder, as defined in s. 55.01 (1v)."
21. Page 80, line 23: delete the material beginning with that line and ending with page 81, line 2.
22. Page 81, line 18: delete lines 18 to 21.

(END)

TELEPHONE DRAFTING INSTRUCTIONS

Drafting instructions received by Debora Kennedy.

DATE:

2/2/06

CONVERSATION
WITH:

Mary Matthews
Leg Council

OF:

TELEPHONE NO:

REGARDING LRB #
OR DRAFT TOPIC:

INSTRUCTIONS:

Redraft 05a 2144/1;
add 05a 2219 to it,
as agreed to by committee
in hearing 2/1/06



TODAY
State of Wisconsin
2005 - 2006 LEGISLATURE

LRBa2144/12

DAK:lmk:jf

↑
stays

ASSEMBLY AMENDMENT ,
TO 2005 ASSEMBLY BILL 539

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2 1. Page 14, line 14: after that line insert:

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5 5. Unauthorized use of an entity's identifying information or documents, as
6 prohibited in s. 943.203.

7 6. Forgery, as prohibited in s. 943.38.

8 7. Financial transaction card crimes, as prohibited in s. 943.41."

9 2. Page 33, line 3: after "55," insert "813,".

10 3. Page 36, line 14: delete the material beginning with that line and ending
11 with page 38, line 11.

12 4. Page 38, line 17: delete "that which" and substitute "which that".

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2 of aging or” and substitute “~~senility which is primarily caused by the process of aging~~
3 ~~or~~”.

4 **6.** Page 42, line 2: delete “abuse, and degrading treatment” and substitute
5 “~~abuse and degrading treatment, neglect, and self-neglect~~”.

6 **7.** Page 42, line 6: delete “exploitation and neglect” and substitute “financial
7 exploitation and, neglect, and self-neglect”.

8 **8.** Page 43, line 11: delete lines 11 to 13 and substitute “constitutes a
9 substantial handicap to the afflicted individual. The term does not include a person
10 ~~affected by senility which is primarily caused by the process of aging or the~~
11 ~~infirmities of aging~~ with degenerative brain disorder.”.

12 **9.** Page 44, line 8: delete lines 8 to 11 and substitute “develop a statewide
13 system of protective service services for ~~mentally retarded and other~~
14 ~~developmentally disabled persons, for aged infirm persons, for persons with~~
15 degenerative brain disorders, chronically mentally ill persons, and ~~for~~ persons with
16 other like incapacities incurred at any age, in accordance with rules promulgated by
17 the department. The”.

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20 ~~caretaker or the landlord~~ at risk. The”.

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22 ending with “respond” on line 16 and substitute “required to refer”.

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3 individual under this paragraph who received the credible report or who personally
4 made”.

5 **16.** Page 64, line 18: delete the material beginning with that line and ending
6 with page 66, line 21.

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8 exploitation”.

9 **18.** Page 71, line 24: delete lines 24 and 25 and substitute “enforcement officer
10 to contact the individual at risk.”.

11 **19.** Page 73, line 20: delete lines 20 and 21 and substitute “enforcement officer
12 to contact the individual at risk.”.

13 **20.** Page 75, line 20: delete lines 20 to 22 and substitute “constitutes a
14 substantial handicap to the afflicted individual. The term does not include a person
15 ~~affected by senility which is primarily caused by the process of aging or the~~
16 infirmities of aging with degenerative brain disorder, as defined in s. 55.01 (1v).”.

INSERT 3-16

17 **21.** Page 80, line 23: delete the material beginning with that line and ending
18 with page 81, line 2.

19 **22.** Page 81, line 18: delete lines 18 to 21.

20

(END)

RESEARCH APPENDIX - Draft Transfer/Copy Request Form

- Atty's please complete this form and give to Mike Barman

(Request Made By: DAK)

(Date: 2 / 2 / 06)




☐ Please transfer the drafting file for

2003 LRB _____ to the drafting file

for 2005 LRB _____

 The final version of the 2003 draft and the final Request Sheet will be copied on yellow paper, and returned to the original 2003 drafting file. A new cover sheet will be created/included listing the new location of the drafting file's "guts".


 For research purposes, because the 2003 draft was incorporated into a 2005 draft, the complete drafting file will be transferred, as a separate appendix, to the new 2005 drafting file. This request form will be inserted into the "guts" of the 2005 draft. If introduced, the appendix will be scanned/added to the electronic drafting file folder.


---OR---

☒ Please copy the drafting file for

2005 LRB a 2219 / 1 (include the version) and place it in the

drafting file for 2005 LRB a 2144

 For research purposes, because the original 2005 draft was incorporated into another 2005 draft, the original drafting file will be copied on yellow paper (darkened/auto centered/reduced to 90%) and added, as a separate appendix, to the new 2005 drafting file. This request form will be inserted into the "guts" of the new 2005 draft. If introduced the appendix will be scanned/added to the electronic drafting file folder.

 The original drafting file will then be returned, intact, to its folder and filed. For future reference, a copy of the transfer/copy request form will also be added to the "guts" of the original draft.

2005 - 2006 LEGISLATURE

LRBa2219/1
DAK:lmk:jf

**ASSEMBLY AMENDMENT ,
TO 2005 ASSEMBLY BILL 539**

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 79, line 12: delete "or neglects, with negligence," and substitute ", with
3 negligence, or neglects".

4 ~~(END)~~